



General Assembly

February Session, 2010

**Amendment**

LCO No. 4604

**\*HB0525504604HD0\***

Offered by:

REP. SHARKEY, 88<sup>th</sup> Dist.

To: Subst. House Bill No. 5255

File No. 649

Cal. No. 228

**"AN ACT CONCERNING MUNICIPAL MANDATE RELIEF."**

1 Strike sections 1 to 3, inclusive, in their entirety and insert the  
2 following in lieu thereof:

3 "Section 1. Section 47a-42 of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective July 1, 2010*):

5 (a) Whenever a judgment is entered against a defendant pursuant to  
6 section 47a-26, 47a-26a, 47a-26b or 47a-26d for the recovery of  
7 possession or occupancy of residential property, such defendant and  
8 any other occupant bound by the judgment by subsection (a) of section  
9 47a-26h shall forthwith remove himself or herself, such defendant's or  
10 occupant's possessions and all personal effects unless execution has  
11 been stayed pursuant to sections 47a-35 to 47a-41, inclusive. If  
12 execution has been stayed, such defendant or occupant shall forthwith  
13 remove himself or herself, such defendant's or occupant's possessions  
14 and all personal effects upon the expiration of any stay of execution. If  
15 the defendant or occupant has not so removed himself or herself upon  
16 entry of a judgment pursuant to section 47a-26, 47a-26a, 47a-26b or  
17 47a-26d, and upon expiration of any stay of execution, the plaintiff

18 may obtain an execution upon such summary process judgment, and  
19 the defendant or other occupant bound by the judgment by subsection  
20 (a) of section 47a-26h and the possessions and personal effects of such  
21 defendant or other occupant may be removed by a state marshal,  
22 pursuant to such execution, and [such possessions and personal effects  
23 may be set out on the adjacent sidewalk, street or highway] delivered  
24 to the place of storage designated by the chief executive officer for such  
25 purposes.

26 (b) Before any such removal, the state marshal charged with  
27 executing upon any such judgment of eviction shall give the chief  
28 executive officer of the town twenty-four hours notice of the eviction,  
29 stating the date, time and location of such eviction as well as a general  
30 description, if known, of the types and amount of property to be  
31 removed from the premises and delivered to the designated place of  
32 storage. Before giving such notice to the chief executive officer of the  
33 town, the state marshal shall use reasonable efforts to locate and notify  
34 the defendant of the date and time such eviction is to take place and of  
35 the possibility of a sale pursuant to subsection (c) of this section. Such  
36 notice shall include service upon each defendant and upon any other  
37 person in occupancy, either personally or at the premises, of a true  
38 copy of the summary process execution. Such execution shall be on a  
39 form prescribed by the Judicial Department, shall be in clear and  
40 simple language and in readable format, and shall contain, in addition  
41 to other notices given to the defendant in the execution, a conspicuous  
42 notice, in large boldface type, that a person who claims to have a right  
43 to continue to occupy the premises should immediately contact an  
44 attorney, and clear instructions as to how and where the defendant  
45 may reclaim any possessions and personal effects removed and stored  
46 pursuant to this section, including a telephone number that may be  
47 called to arrange release of such possessions and personal effects.

48 (c) Whenever the possessions and personal effects of a defendant  
49 are [set out on the sidewalk, street or highway, and are not  
50 immediately removed by the defendant, the chief executive officer of  
51 the town shall remove and store the same] removed by a state marshal

52 under this section, such possessions and effects shall be delivered by  
53 such marshal to the designated place of storage. Such removal,  
54 delivery and storage shall be at the expense of the defendant. If such  
55 possessions and effects are not [called for] reclaimed by the defendant  
56 and the expense of such [removal and] storage is not paid to the chief  
57 executive officer within fifteen days after such eviction, the chief  
58 executive officer shall sell the same at public auction, after using  
59 reasonable efforts to locate and notify the defendant of such sale and  
60 after posting notice of such sale for one week on the public signpost  
61 nearest to the place where the eviction was made, if any, or at some  
62 exterior place near the office of the town clerk. The chief executive  
63 officer shall deliver to the defendant the net proceeds of such sale, if  
64 any, after deducting a reasonable charge for [removal and] storage of  
65 such possessions and effects. If the defendant does not demand the net  
66 proceeds within thirty days after such sale, the chief executive officer  
67 shall turn over the net proceeds of the sale to the town treasury.

68 Sec. 2. Section 49-22 of the general statutes is repealed and the  
69 following is substituted in lieu thereof (*Effective July 1, 2010*):

70 (a) In any action brought for the foreclosure of a mortgage or lien  
71 upon land, or for any equitable relief in relation to land, the plaintiff  
72 may, in his complaint, demand possession of the land, and the court  
73 may, if it renders judgment in his favor and finds that he is entitled to  
74 the possession of the land, issue execution of ejectment, commanding  
75 the officer to eject the person or persons in possession of the land and  
76 to put in possession thereof the plaintiff or the party to the foreclosure  
77 entitled to the possession by the provisions of the decree of said court,  
78 provided no execution shall issue against any person in possession  
79 who is not a party to the action except a transferee or lienor who is  
80 bound by the judgment by virtue of a lis pendens. The officer shall  
81 eject the person or persons in possession and may remove such  
82 person's possessions and personal effects and [set them out on the  
83 adjacent sidewalk, street or highway] deliver such possessions and  
84 effects to the place of storage designated by the chief executive officer  
85 of the town for such purposes.

86 (b) Before any such removal, the state marshal charged with  
87 executing upon the ejectment shall give the chief executive officer of  
88 the town twenty-four hours notice of the ejectment, stating the date,  
89 time and location of such ejectment as well as a general description, if  
90 known, of the types and amount of property to be removed from the  
91 land and delivered to the designated place of storage. Before giving  
92 such notice to the chief executive officer of the town, the state marshal  
93 shall use reasonable efforts to locate and notify the person or persons  
94 in possession of the date and time such ejectment is to take place and  
95 of the possibility of a sale pursuant to subsection (c) of this section and  
96 shall provide clear instructions as to how and where such person or  
97 persons may reclaim any possessions and personal effects removed  
98 and stored pursuant to this section, including a telephone number that  
99 such person or persons may call to arrange release of such possessions  
100 and personal effects.

101 (c) Whenever a mortgage or lien upon land has been foreclosed and  
102 execution of ejectment issued, and the possessions and personal effects  
103 of the person in possession thereof are [set out on the sidewalk, street  
104 or highway, and are not immediately removed by such person, the  
105 chief executive officer of the town shall remove and store the same]  
106 removed by a state marshal under this section, such possessions and  
107 effects shall be delivered by such marshal to the designated place of  
108 storage. Such removal, delivery and storage shall be at the expense of  
109 such person. If the possessions and effects are not [called for]  
110 reclaimed by such person and the expense of the [removal and] storage  
111 is not paid to the chief executive officer within fifteen days after such  
112 ejectment, the chief executive officer shall sell the same at public  
113 auction, after using reasonable efforts to locate and notify such person  
114 of the sale and after posting notice of the sale for one week on the  
115 public signpost nearest to the place where the ejectment was made, if  
116 any, or at some exterior place near the office of the town clerk. The  
117 chief executive officer shall deliver to such person the net proceeds of  
118 the sale, if any, after deducting a reasonable charge for [removal and]  
119 storage of such possessions and effects. If such person does not

120 demand the net proceeds within thirty days after the sale, the chief  
121 executive officer shall turn over the net proceeds of the sale to the town  
122 treasury.

123 Sec. 3. Section 12-80a of the general statutes is repealed and the  
124 following is substituted in lieu thereof (*Effective October 1, 2010, and*  
125 *applicable to assessment years commencing on or after said date*):

126 (a) Any (1) taxpayer which, prior to January 1, 1990, was subject to  
127 tax under chapter 211 with respect to the rendering of  
128 telecommunications service and which, on or after January 1, 1990, is  
129 subject to tax under chapter 219 for rendering telecommunications  
130 service and (2) other taxpayer that is subject to tax under chapter 219  
131 for rendering telecommunications service and which has elected in the  
132 manner specified in this section to have personal property taxed as  
133 provided in this section, shall be required to submit to the  
134 Commissioner of Revenue Services and the Secretary of the Office of  
135 Policy and Management, not later than the thirtieth day of November  
136 of each year during which it is subject to tax under chapter 219, a list of  
137 all personal property on a town-by-town basis that is owned by such  
138 taxpayer in this state on the first day of October of such year and that  
139 is used solely and exclusively for rendering telecommunications  
140 service, as defined in said chapter 219, including the location of each  
141 item of such property and the fair market value thereof, recognizing  
142 depreciation of such property to the maximum extent allowed for  
143 purposes of the corporation business tax in this state, as certified by  
144 the Commissioner of Revenue Services. Each such taxpayer shall also  
145 submit said list to each municipality in which such taxpayer owns  
146 property, provided the list submitted to a municipality shall contain  
147 only the personal property owned by such taxpayer that is located in,  
148 or allocated pursuant to this subsection to, said municipality. If the  
149 records of a taxpayer subject to the requirements of this subsection do  
150 not contain the data necessary to develop the list as required without  
151 undue cost, the taxpayer may, for purposes of requirements under this  
152 subsection, petition the Commissioner of Revenue Services for  
153 approval of an alternate method of determining the value of the plant

154 used solely and exclusively to render telecommunications services, but  
155 not including central office or switching equipment of that taxpayer,  
156 located in each town in the state. If the commissioner finds that the  
157 alternative method proposed results in a reasonable approximation of  
158 the value of the property of the taxpayer located in each town and  
159 used solely and exclusively for rendering telecommunications service,  
160 the commissioner shall notify the taxpayer that the proposed alternate  
161 method is acceptable and the taxpayer shall be permitted to use the  
162 alternate method in developing the list required under this subsection.

163 (b) (1) Not later than the first day of February immediately  
164 following the end of such tax year, the Secretary of the Office of Policy  
165 and Management shall determine, with respect to such company, a  
166 value for personal property equivalent to seventy per cent of the value  
167 of personal property included in the list of such property prepared and  
168 certified in accordance with subsection (a) of this section. The amount  
169 of tax applicable with respect to such personal property of any  
170 taxpayer subject to the tax imposed under this section shall be  
171 determined by multiplying the value of personal property of such  
172 company, as determined under this subsection, by a mill rate of forty-  
173 seven mills. Said secretary shall, not later than the first day of March  
174 immediately following the end of such tax year, submit a tax bill to  
175 each company stating the amount of tax payable to each town in  
176 relation to the personal property of such taxpayer located in such  
177 town. Such tax shall be due and payable to the town in which such  
178 personal property is located not later than the first day of April  
179 immediately following. Any city or borough not consolidated with the  
180 town in which it is located and any town containing such a city or  
181 borough shall receive a portion of the tax due and payable to such  
182 town on the basis of the following ratio: The total taxes levied in the  
183 previous fiscal year by such town, city or borough shall be the  
184 numerator of the fraction. The total taxes levied by the town and all  
185 cities or boroughs located within such town shall be added together,  
186 and the sum shall be the denominator of the fraction. Any such city or  
187 borough may, by vote of its legislative body, direct the Secretary of the

188 Office of Policy and Management to reallocate all or a portion of the  
189 share of such city or borough to the town in which it is located.

190 (2) The person responsible for the collection of taxes for each town,  
191 city or borough owed taxes under this subsection may, at such time as  
192 such tax becomes delinquent as provided in sections 12-146 and 12-  
193 169, subject such tax to interest at the rate of one and one-half per cent  
194 of such tax for each month or fraction thereof which elapses from the  
195 time when such tax becomes due and payable until the same is paid.

196 (c) With respect to tangible personal property included in the list of  
197 such property submitted to the Secretary of the Office of Policy and  
198 Management as provided in subsection (a) of this section, any taxpayer  
199 subject to the tax imposed under this section for any tax year shall not  
200 be subject to property tax in any town applicable to such personal  
201 property for the assessment year in such town commencing on the first  
202 day of October immediately preceding the date on which the tax  
203 determined with respect to such property in accordance with this  
204 section becomes due and payable.

205 (d) Any taxpayer that, on or after January 1, 1990, is subject to tax  
206 under chapter 219 for rendering telecommunications service but that,  
207 prior to January 1, 1990, was not subject to tax under chapter 211 for  
208 rendering telecommunications service may elect to have personal  
209 property taxed in the manner specified in this section. Such election  
210 shall be made in writing and filed with the Secretary of the Office of  
211 Policy and Management and a copy thereof shall be filed with the  
212 assessor of each town in which personal property affected by such  
213 election is located. [Such] Except as provided in subsection (g) of this  
214 section, such election, once filed with the secretary, shall be irrevocable  
215 and shall, if filed on or before the date that is two months prior to the  
216 start of the assessment year, be effective for such assessment year and  
217 for all succeeding assessment years, otherwise to be effective for the  
218 next succeeding assessment year and all succeeding assessment years.

219 (e) For assessment years commencing on or after October 1, 1997,

220 the provisions of this section, including informational reporting  
221 requirements imposed on owners, shall also apply, to the extent  
222 provided in section 12-80b, to property that is used both to render  
223 telecommunications service subject to tax under chapter 219 and to  
224 render community antenna television service subject to tax under  
225 chapter 219 and that is required, under subsection (a) of section 12-80b,  
226 to be taxed as provided in this section.

227 (f) Any municipality may examine the Office of Policy and  
228 Management's or the Department of Revenue Services' audit of a  
229 taxpayer's submission pursuant to subsection (a) of this section.

230 (g) (1) Any election for taxation made under subsection (d) of this  
231 section on or before August 1, 2009, by a taxpayer that provides mobile  
232 telecommunications service, as defined in section 12-407a, is null and  
233 void. For the assessment year commencing October 1, 2010, and for  
234 each assessment year thereafter, such taxpayer shall not be subject to  
235 taxation for personal property under subsection (b) of this section, but  
236 shall be subject to personal property taxation as otherwise provided in  
237 this chapter, subject to the provisions of subdivisions (2) and (3) of this  
238 subsection. No taxpayer that provides mobile telecommunications  
239 service shall be eligible to make an election as provided in subsection  
240 (d) of this section after August 1, 2009.

241 (2) The personal property of any taxpayer whose election for  
242 taxation becomes null and void pursuant to this subsection that, on or  
243 before the October 1, 2009, grand list, has not been depreciated to the  
244 maximum extent allowed for purposes of the corporation business tax  
245 in this state, shall be subject to taxation by the town in which it is  
246 located as of the assessment year beginning October 1, 2010, under the  
247 provisions of this chapter that are applicable to all other taxpayers.

248 (3) The personal property of any taxpayer whose election for  
249 taxation becomes null and void pursuant to this subsection that, on or  
250 before the October 1, 2009, grand list, has been depreciated to the  
251 maximum extent allowed for purposes of the corporation business tax



252 in this state, shall be subject to taxation for assessment years  
253 commencing on and after October 1, 2010, as follows: (A) In the  
254 assessment year beginning October 1, 2010, such taxpayer shall file a  
255 declaration, as required by section 12-41, in which twenty-five per cent  
256 of the total value of such taxpayer's fully depreciated personal  
257 property shall be reported for purposes of assessment; (B) in the  
258 assessment year beginning October 1, 2011, such taxpayer shall file a  
259 declaration as required by section 12-41, in which fifty per cent of the  
260 total value of such taxpayer's fully depreciated personal property shall  
261 be reported for purposes of assessment; (C) in the assessment year  
262 beginning October 1, 2012, such taxpayer shall file a declaration as  
263 required by section 12-41, in which seventy-five per cent of the total  
264 value of such taxpayer's fully depreciated personal property shall be  
265 reported for purposes of assessment; and (D) in the assessment year  
266 beginning October 1, 2013, and each assessment year thereafter, such  
267 taxpayer shall file a declaration as required by section 12-41, in which  
268 one hundred per cent of the total value of such taxpayer's fully  
269 depreciated personal property shall be reported for purposes of  
270 assessment."